



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Duncan M. Kitchin

Serial No.: 09/841,657

Filed: April 24, 2001

For: Managing Bandwidth in Network
Supporting Variable Bit Rate

§
§
§
§
§
§
§
§
§

Art Unit: 2663

Examiner: Chi Ho A. Lee

Atty Docket: ITL.0405US
(P8988)

Assignee: Intel Corporation

Mail Stop **Appeal Brief-Patents**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPEAL BRIEF

04/14/2006 CCHAU1 00000077 09841657

01 FC:1402

500.00 DP

Date of Deposit: April 11, 2006

I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Nancy Meshkoff

TABLE OF CONTENTS

| | |
|--|----|
| REAL PARTY IN INTEREST | 3 |
| RELATED APPEALS AND INTERFERENCES..... | 4 |
| STATUS OF CLAIMS | 5 |
| STATUS OF AMENDMENTS | 6 |
| SUMMARY OF CLAIMED SUBJECT MATTER | 7 |
| GROUND OF REJECTION TO BE REVIEWED ON APPEAL | 10 |
| ARGUMENT | 11 |
| CLAIMS APPENDIX..... | 13 |
| EVIDENCE APPENDIX..... | 17 |
| RELATED PROCEEDINGS APPENDIX..... | 18 |

REAL PARTY IN INTEREST

The real party in interest is the assignee Intel Corporation.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-6 (Rejected).

Claim 7 (Canceled).

Claims 8-30 (Rejected).

Claims 1-6 and 8-30 are rejected and are the subject of this Appeal Brief.

STATUS OF AMENDMENTS

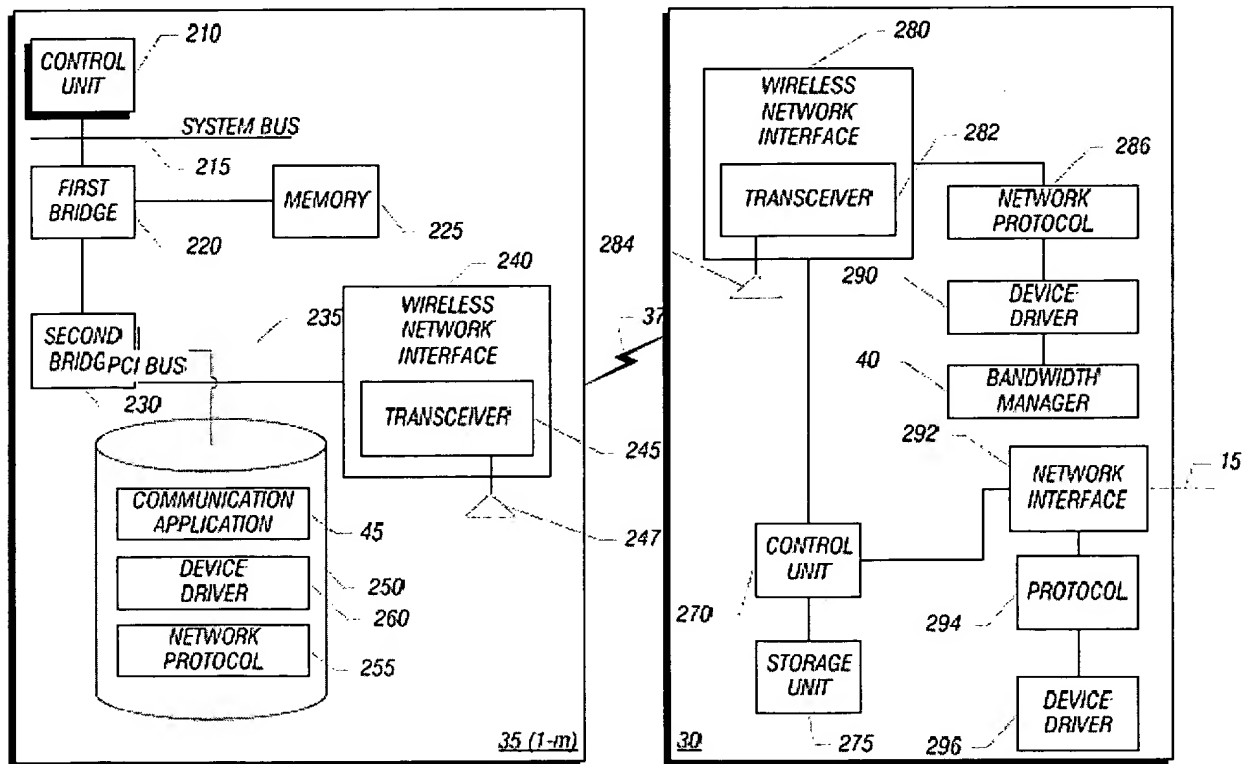
All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

The claims call for a controller to detect a bit rate change event. A first portion of the data is transmitted using a reserved bandwidth in response to the event and a second portion of the data is transmitted using an unreserved bandwidth in response to detecting the bit change event.

In the following discussion, the independent claims are read on one of many possible embodiments without limiting the claims:

1. An apparatus, comprising:
an interface (30, Figure 2) to transmit data to a receiving device (35, Figure 1);
and
a controller (210, Figure 2) communicatively coupled to the interface, the controller to detect a bit rate change event and in response to said event to transmit a first portion (510, Figure 5) of the data using reserved bandwidth and a second portion (520, Figure 5) of the data using unreserved bandwidth in response to detecting the bit rate change event (specification at page 7, lines 7-9; page 8 line 18-page 9, line 13).



10. An article comprising one or more machine-readable storage media containing instructions that when executed enable a processor to:

detect a reduced transfer rate (Figure 3, diamond 330) (specification at page 8, line 18-page 9, line 13); and

transmit a first portion of the data using reserved bandwidth (Figure 3, block 345) and a second portion of the data (Figure 3, block 343) using unreserved bandwidth in response to detecting the reduced transfer rate (specification at page 8, line 18-page 9, line 13).

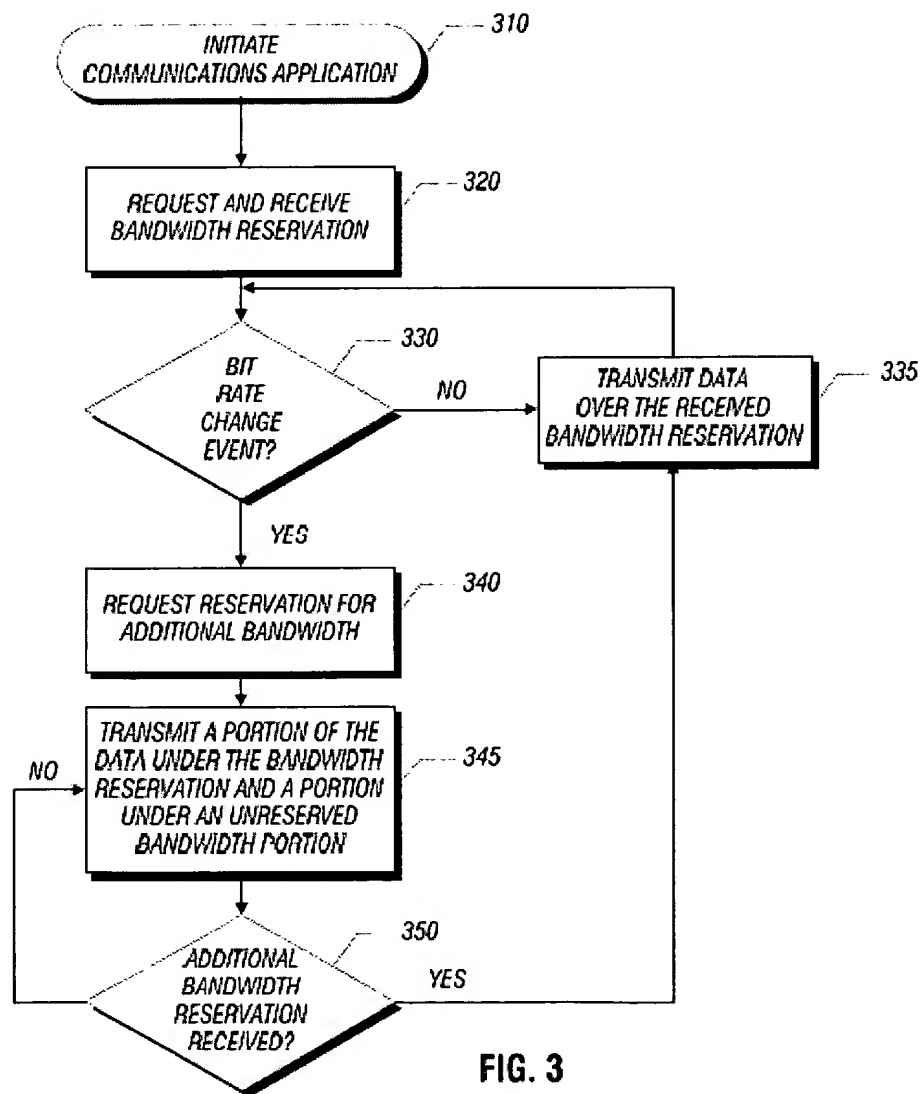


FIG. 3

18. A method, comprising:
receiving a first bandwidth reservation for transferring data at a pre-selected bit rate (Figure 3, diamond 330) (specification at page 8, line 18-page 9, line 13); and
transmitting a first portion of the data over the first bandwidth reservation (Figure 3, block 345) and a second portion of the data (Figure 3, block 343) over unreserved bandwidth in response to determining that a current data transfer rate is less than the pre-selected bit rate (specification at page 8, line 18-page 9, line 13).

24. A system, comprising:
a wireless network hub (30, Figure 2); and
a client (35) to detect a bit rate change event and transmit a first portion (510, Figure 5) of the data under a prior bandwidth agreement and a second portion (520, Figure 5) of the data not under the prior bandwidth agreement to the wireless network hub in response to detecting the bit rate change event (specification at page 7, lines 7-9; page 8 line 18-page 9, line 13).

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. Are claims 1-5, 8, and 18-30 anticipated by Newberg?

ARGUMENT

A. Are claims 1-5, 8, and 18-30 anticipated by Newberg?

The claims call for a controller to detect a bit rate change event. A first portion of the data is transmitted using a reserved bandwidth in response to the event and a second portion of the data is transmitted using an unreserved bandwidth in response to detecting the bit change event.

In other words, when the bit rate change event occurs, some data goes on a reserved bandwidth and some goes on an unreserved bandwidth.

The Office action suggests that step 516 in Figure 5 of the Newberg reference teaches determining when additional bandwidth is required at a mobile. This the examiner contends is a bit rate change event.

The problem is that, even if we were to accept that argument for present purposes only, the claim still requires that a first portion of the data be transmitted using a reserved bandwidth and a second portion be transmitted using an unreserved bandwidth. Nowhere does the reference ever indicate that a second portion of the data is transmitted on an unreserved bandwidth in response to the detection of bit rate change event.

Firstly, it should be noted that the examiner relies on a new bandwidth request 518 and suggests that somehow this teaches determining whether additional unreserved bandwidth is required. However, the request 518 is explained in column 7, lines 17 *et seq.* It is clear that the request 518 is a request from an additional application (see Column 7, lines 19-20) not a bit rate change in the same application that was previously the subject of a reserved bandwidth. Thus the reliance on step 518 is unavailing because (1) it does not teach any unreserved bandwidth, and (2) it relates to a different application, not the application which was already subject to the alleged bit rate change.

Moreover, the reference actually explains the step 516 although it never actually refers to the step 516 in the drawing. Namely, in column 7, lines 5-16 it is explained that the communication system continually assesses the traffic and channel requirements 500 and that it keeps account of the actual slots per second used by the application. This reflects the actual channel utilization of the application. The actual channel utilization is compared with the predicted channel bandwidth that is allocated or reserved. This is done “to determine if an

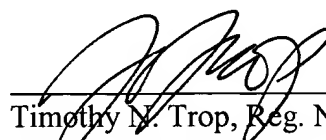
adjustment should be made to the bandwidth allocation". Thus the language "bandwidth allocation" suggests that if something changes, new bandwidth is allocated. This is the opposite of suggesting applying an unreserved bandwidth as set forth, for example, in claim 1.

Therefore the reference cited under § 102 explicitly teaches away or teaches the opposite of what is claimed. Therefore the rejection cannot be sustained.

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,

Date: April 11, 2006



Timothy N. Trop, Reg. No. 28,994
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Ste. 100
Houston, TX 77024
713/468-8880 [Phone]
713/468-8883 [Fax]

Attorneys for Intel Corporation

CLAIMS APPENDIX

The claims on appeal are:

1. An apparatus, comprising:
an interface to transmit data to a receiving device; and
a controller communicatively coupled to the interface, the controller to detect a bit rate change event and in response to said event to transmit a first portion of the data using reserved bandwidth and a second portion of the data using unreserved bandwidth in response to detecting the bit rate change event.
2. The apparatus of claim 1, wherein the interface comprises an interface to transmit over a wireless medium.
3. The apparatus of claim 1, wherein the interface comprises a wireless network card.
4. The apparatus of claim 1, wherein the controller further to request a reservation for additional bandwidth in response to detecting the bit rate change.
5. The apparatus of claim 4, wherein the controller to transmit the second portion of the data using the reservation for the additional bandwidth.
6. The apparatus of claim 1, wherein the bit rate change event causes a reduction in transfer rate, wherein the controller further requests a new bandwidth reservation to compensate for the reduced transfer rate.
8. The apparatus of claim 1, wherein the controller further designates the first portion of the data as high priority and the second portion of the data as low priority.

9. The apparatus of claim 1, wherein the controller to determine the bit rate change event comprises the controller to determine a drop in quality of service during communications with the receiving device.

10. An article comprising one or more machine-readable storage media containing instructions that when executed enable a processor to:
detect a reduced transfer rate; and
transmit a first portion of the data using reserved bandwidth and a second portion of the data using unreserved bandwidth in response to detecting the reduced transfer rate.

11. The article of claim 10, wherein the instructions when executed enable the processor to request additional bandwidth reservation in response to detecting the reduced transfer rate.

12. The article of claim 11, wherein the instructions when executed enable the processor to transmit the first and second portion of the data using the reserved portion and the additional bandwidth reservation.

13. The article of claim 12, wherein the instructions when executed enable the processor to request a new bandwidth reservation in response to detecting the reduced transfer rate.

14. The article of claim 13, wherein the instructions when executed enable the processor to transmit the first portion and the second portion of the data using the new bandwidth reservation in response to receiving the new bandwidth reservation.

15. The article of claim 10, wherein the instructions when executed enable the processor to transmit a first portion of the data using the reserved bandwidth on a wireless communications link.

16. The article of claim 10, wherein the instructions when executed enable the processor to detect the reduced rate based on a change in a transmission channel condition.

17. The article of claim 10, wherein the instructions when executed enable the processor to transmit a high priority data using the reserved bandwidth and a low priority data using the unreserved bandwidth in response to detecting the reduced transfer rate.

18. A method, comprising:
receiving a first bandwidth reservation for transferring data at a pre-selected bit rate; and
transmitting a first portion of the data over the first bandwidth reservation and a second portion of the data over unreserved bandwidth in response to determining that a current data transfer rate is less than the pre-selected bit rate.

19. The method of claim 18, further comprising requesting additional bandwidth reservation in response to determining whether the current data transfer rate is less than the pre-selected bit rate.

20. The method of claim 19, further comprising transmitting the first portion and the second portion of the data using the first bandwidth reservation and the additional bandwidth reservation.

21. The method of claim 18, further comprising requesting a new bandwidth reservation in response to determining the current data transfer rate is less than the pre-selected bit rate.

22. The method of claim 21, further comprising transmitting the first portion and the second portion of the data over the new bandwidth reservation.

23. The method of claim 18, comprising receiving the first bandwidth reservation for a wireless link.

24. A system, comprising:
a wireless network hub; and
a client to detect a bit rate change event and transmit a first portion of the data under a prior bandwidth agreement and a second portion of the data not under the prior bandwidth agreement to the wireless network hub in response to detecting the bit rate change event.
25. The system of claim 24, wherein the client is a wireless client.
26. The system of claim 25, wherein the wireless client comprises a wireless network interface.
27. The system of claim 24, wherein the wireless network hub is an access point.
28. The system of claim 27, wherein the wireless network hub serves as an interface between a wireless network and a wired network.
29. The system of claim 24, wherein the client further requests another agreement for additional bandwidth from the wireless network hub in response to detecting the bit rate change event.
30. The system of claim 24, wherein the client further requests a new bandwidth agreement from the wireless network hub in response to detecting the bit rate change event.

EVIDENCE APPENDIX

None.

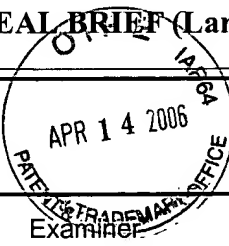
RELATED PROCEEDINGS APPENDIX

None.

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
ITL.0405US

In Re Application Of: **Duncan M. Kitchin**



| Application No. | Filing Date | Examiner | Customer No. | Group Art Unit | Confirmation No. |
|-----------------|----------------|---------------|--------------|----------------|------------------|
| 09/841,657 | April 24, 2001 | Chi Ho A. Lee | 21906 | 2663 | 6439 |

Invention: **Managing Bandwidth in Network Supporting Variable Bit Rate**

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on
February 13, 2006.

The fee for filing this Appeal Brief is: **\$500.00**

- ☒ A check in the amount of the fee is enclosed.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. **20-1504**
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Signature

Timothy N. Trop, Reg. No. 28,994
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
713/468-8880 [Phone]
713/468-8883 [Fax]

Dated: **April 11, 2006**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

April 11, 2006

(Date)

Signature of Person Mailing Correspondence

Nancy Meshkoff

Typed or Printed Name of Person Mailing Correspondence

CC: